

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY JAMAL WITT,

Plaintiff,

v.

SOLANO COUNTY, et al.,

Defendant.

No. 2:23-cv-0288-DAD-KJN (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION DUE TO PLAINTIFF'S FAILURE
TO PROSECUTE AND FAILURE TO
COMPLY WITH COURT ORDERS

(Doc. No. 5)

Plaintiff Anthony J. Witt is a former county jail inmate proceeding *pro se* and with an application to proceed *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636 (b)(1)(B) and Local Rule 302.

On October 24, 2023, the assigned magistrate judge issued findings and recommendations recommending that this action be dismissed, without prejudice, due to plaintiff's failure to prosecute this action and failure to comply with court orders. (Doc. No. 5.) In particular, on February 17, 2023, the court issued an order directing the parties to file the form consenting to magistrate judge jurisdiction over this action or withholding such consent within 30 days. (Doc.

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No. 4.) That order was served on plaintiff at his then address of record.¹ (Doc. No. 4.) Although plaintiff's consent or withholding of consent was ordered to be filed by March 23, 2023, plaintiff did not reply to the court's order. (*Id.*) Because plaintiff had not complied with the court's order or otherwise communicated with the court, the magistrate judge concluded that plaintiff had failed to prosecute this action. (Doc. No. 5.) The pending findings and recommendations were also served on plaintiff by mail at his address of record and contained notice that any objections thereto were to be filed within fourteen (14) days after service.² (*Id.* at 1.) To date, no objections to the findings and recommendations have been filed, and the time in which to do so has now passed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the findings and recommendations are supported by the record and by proper analysis.

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¹ The court notes that on February 16, 2023, the same day the complaint was filed, the court received plaintiff's notice of change of address due to his release from confinement. As reflected on the docket, the court's order re consent was therefore served by mail upon plaintiff to both his prior address at the Stanton Correctional Facility and to his updated address in Vallejo, CA. On March 3, 2023, the service copy of the order re consent sent to plaintiff's updated address in Vallejo was returned to the court, marked as "Undeliverable." Thus, plaintiff was required to file a notice of his change of address with the court no later than May 11, 2023. To date, plaintiff has not filed a notice of his change of address or otherwise communicated with the court.

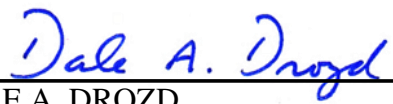
² The pending October 24, 2023 findings and recommendations were served on plaintiff by mailed to the Vallejo, CA address provided by plaintiff in his February 16, 2023 notice of change of address. However, the findings and recommendations served to that address were likewise returned to the court on November 3, 2023 and marked as "Undeliverable." It is the plaintiff's responsibility to keep the court apprised of his current address at all times. Pursuant to Local Rule 182(f), service of documents at the record address of the party is fully effective.

Accordingly:

1. The findings and recommendations issued on October 24, 2023 (Doc. No. 5) are adopted in full;
2. This action is dismissed, without prejudice, due to plaintiff's failure to prosecute this action and failure to comply with a court order; and
3. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: **December 12, 2023**



DALE A. DROZD
UNITED STATES DISTRICT JUDGE